

**CV 17-6535**

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

CHEN, J.

REYES, M.J.

Mark A Smith

**Complaint for Violation of Civil  
Rights  
(Non-Prisoner Complaint)**

Case No. \_\_\_\_\_  
(to be filled in by the Clerk's Office)

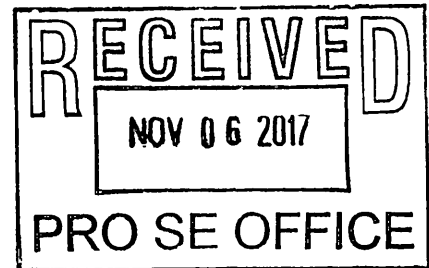
Jury Trial: ☒ Yes ☐ No  
(check one)

(Write the full name of each plaintiff who is filing  
this complaint. If the names of all the plaintiffs  
cannot fit in the space above, please write "see  
attached" in the space and attach an additional  
page with the full list of names.)

-against-

Det. Lamiano, Shield # 32, Bklyn North  
Narcotics, P.O. Allevato, Shield # 23939, Bklyn North  
Narcotics, Jay Kieras, ADA Kings County, C. of NY

(Write the full name of each defendant who is  
being sued. If the names of all the defendants  
cannot fit in the space above, please write "see  
attached" in the space and attach an additional  
page with the full list of names. Do not include  
addresses here.)



**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Mark A. Smith
Street Address	[REDACTED]
City and County	Brooklyn, N.Y.
State and Zip Code	N.Y. 11206
Telephone Number	[REDACTED]
E-mail Address	[REDACTED]

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name	Det. Farnano, <del>Det. Farnano</del>
Job or Title (if known)	Shield # 32
Street Address	Brooklyn North Narcotics
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 2

Name

P.O. Allevato, Shield # 23939

Job or Title  
(if known)

Street Address

Brooklyn North Narcotics

City and County

State and Zip Code

Telephone Number

E-mail Address  
(if known)

Defendant No. 3

Name

City of New York

Job or Title  
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address  
(if known)

Defendant No. 4

Name

Joy Kieras

Job or Title  
(if known)

Asst. District Attorney

Street Address

Kings County

City and County

State and Zip Code

Telephone Number

E-mail Address  
(if known)

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☒ State or local officials (a § 1983 claim)  
☐ Federal officials (a *Bivens* claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

P.D. Alvarez, Shield # 23939 acting under the color of law  
knowingly, willingly and intentionally perjured himself as to the  
facts for a search warrant and then perjured himself a second  
time before an impaneled grand jury to secure an indictment  
against plaintiff.

Det. Famiano, Shield #32, knowingly, willingly and intentionally and with a reckless disregard for the truth conspired with and perjured himself on behalf of P.O. Allevalo before an impaneled Grand Jury to bolster and support the finding of evidence in Plaintiff's home pursuant to a search warrant that he knew was obtained based upon testimony that was false and with a reckless disregard for the truth. The perjured testimony of Det. Famiano resulted in the impaneled Grand Jury returning a Felony indictment against defendant.

ADA Joy Kieras of the Kings County District Attorney's Office, acting under the color of Law, prosecuted the plaintiff upon evidence that she knew or should have known to have been obtained illegally by Co-defendants Allevalo and Famiano

The City of New York employs each of the defendants herein, and failed to properly train and/or supervise each of the above named defendants.

### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

The events giving rise to plaintiff's claim(s) occurred  
at 223 Ten Eyck Walk, Brooklyn, NY and the Kings  
County Grand Jury

- B. What date and approximate time did the events giving rise to your claim(s) occur?

On February 5, 2015 at approximately 1245 PM

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On 2-5-15 P.O. Allevalo, Shield # 23939 applied for a search  
warrant to search Plaintiff's home. At the time of applying  
for a search warrant, P.O. Allevalo knew that the information  
he was supplying to the Court in his affidavit was false in its  
entirety as to the material facts. Subsequently P.O. Allevalo  
and Det. Samiano, Shield # 32, testified before an impaneled  
Grand Jury with testimony that they each knew to be  
perjured for the purpose of securing a felony indictment against  
Plaintiff. After the return of the felony indictment the  
Plaintiff was prosecuted by Kings County ADA Jay Kieras upon  
evidence that she knew or should have known was based upon  
perjured testimony.

#### IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Plaintiff suffered Mental and emotional distress

#### V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff ask the Court to find defendants in Violation of Plaintiffs 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment rights and award Plaintiff \$5,000,000 (Five Million) in Compensatory damages for the Violation of Plaintiffs 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment rights and \$15,000,000 (Fifteen Million) in punitive damages for the deliberate Violation of Plaintiffs 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment rights and Malicious Prosecution

#### VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11-6-17, 2017.

Signature of Plaintiff 

Printed Name of Plaintiff Mark A. Smith